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TO: **Commissioner for Patents, Mail Stop Appeal Brief, Examiner Michael G. Bogart - United States Patent and Trademark Office**

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Fax No. 513-634-0819 Phone No. 513-634-2061

Application No.: 10/768,949
Inventor(s): Noriko Nawata et al.
Filed: January 30, 2004
Docket No.: AA613
Confirmation No.: 8511

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1) Appeal Brief (15 pages)

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(8_7_06_FAX-USPTO_AA613.doc) laf Revised 11/18/2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/768,949
Inventor(s)	:	Noriko Nawata et al.
Filed	:	January 30, 2004
Art Unit	:	3761
Examiner	:	Michael G. Bogart
Docket No.	:	AA613
Confirmation No.	:	8511
Customer No.	:	27752
Title	:	WAIST BELT FOR SUPPORTING DISPOSABLE ABSORBENT ASSEMBLIES AND ABSORBENT ARTICLES COMPRISING THE SAME

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Brief is filed pursuant to the appeal from the decision communicated in the Office Action mailed on April 6, 2006.

A timely Notice of Appeal was filed on June 7, 2006.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1-8 stand rejected.

Claims 1-8 are appealed.

Appl. No. 10/768,949
Docket No. AA613
Appeal Brief dated August 7, 2006
Reply to Office Action June 7, 2006
Customer No. 27752

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A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

STATUS OF AMENDMENTS

No amendment after the Final Office Action was filed.

SUMMARY OF CLAIMED SUBJECT MATTER

One embodiment of the invention provides for a waist belt 300 (see e.g. page 4, line 28 and Fig. 4) for supporting a disposable absorbent assembly 200 (see e.g. page 4, line 28 and Fig. 5). The belt 300 has a longitudinal centerline L2 (see e.g. page 9, lines 35-36 and Fig. 3), a transverse centerline T2 (see e.g. page 9, lines 35-36 and Fig. 3), a wearer-facing surface 301 (see e.g. page 10, lines 6-7 and Fig. 4), an opposing surface 302 (see e.g. page 10, lines 6-7 and Fig. 4), two end edges, 303 and 304, oppositely disposed with respect to the transverse centerline (see e.g. page 10, lines 7-10 and Fig. 4), and two side edges, 305 and 306, oppositely disposed with respect to the longitudinal centerline (see e.g. page 10, lines 7-10 and Fig. 4). The belt comprises a central segment 310 (see e.g. page 10, line 10 and Fig. 3), at least two intermediate segments 320 (320a and 320b) (see e.g. page 10, lines 10-11) and at least two distal segments 330 (330a and 330b) (see e.g. page 10, lines 10-11 and Fig. 3). The central segment 310 is positioned along the longitudinal centerline L2 and extends transversely outwardly from the longitudinal centerline L2 on either side of the longitudinal centerline L2 (see e.g. Fig. 3). The central segment 310 has a first longitudinal length 311 defined by the distance between the end edges 303 and 304 of the central segment 310 (see e.g. page 10, lines 21-24 and Fig. 3). Each intermediate segment 320a and 320b is transversely outwardly extending from the central segment 310 and is positioned between the central segment 310 and a distal segment 330 (see e.g. page 11, lines 8-9 and Fig. 3). Each intermediate segment 320a and 320b covers a side hip of the wearer when the belt 300 is worn (see e.g. page 11, lines 9-10 and Fig. 6). Each intermediate segment 320a and 320b has a second longitudinal length 321 (see e.g. page 11, lines 11-12 and Fig. 3) defined by the distance between the end edges of each intermediate segment 320a and 320b (page 11, lines 9-12 and Fig. 3). Each distal segment 330a and 330b extends transversely outwardly from an intermediate segment 320 and includes one of the side edges of the belt (see e.g. Fig. 3). Each distal segment 330a and 330b has a third longitudinal length 331

defined by the distance between the end edges of each distal segment (see e.g. page 11, lines 34-36 and Fig. 3). The second longitudinal length 321 is greater than the first longitudinal length 311, and greater than the third longitudinal length 331 (see e.g. page 12, lines 19-24). The belt 300 comprises a fastener element 340 positioned on at least one of the distal segments 330 for releasably securing the belt around the waist of the wearer and an attachment surface 350 formed at least on the opposing surface of each intermediate segment 320 for releasably attaching the disposable assembly 200 to the belt 300 (see e.g. page 12, line 33 to page 13, line 3 and Figs. 4 and 5).

Another embodiment of the invention provides for an absorbent article 100 (see e.g. page 4, lines 19-21 and Fig. 1) having a longitudinal centerline L1 (see e.g. page 4, lines 29-34 and Fig. 2), a transverse centerline T1 (see e.g. page 4, line 34 and Fig. 2), a wearer-facing surface 110 and an opposing surface 120 (see e.g. page 5, lines 1-4 and Fig. 2). The absorbent article comprises a disposable absorbent assembly 200 (see e.g. page 5, lines 11-16 and Fig. 1) comprising a liquid pervious topsheet 220 (see e.g. page 6, lines 5-6 and Fig. 1), a liquid impervious backsheet 230 (see e.g. page 6, lines 15-17 and Fig. 1), an absorbent core 240 (see e.g. page 6, lines 21-24 and Fig. 1) positioned between the topsheet 220 and the backsheet 230, and an attachment means 280 (see e.g. page 5, lines 23-24 and Fig. 1) provided on the wearer-facing surface 201 of the disposable assembly (see e.g. page 5, lines 23-21 and Fig. 1). A waist belt 300 is provided having two end edges, 303 and 304, oppositely disposed with respect to the transverse centerline (see e.g. page 10, lines 7-10 and Fig. 4), and two side edges, 305 and 306, oppositely disposed with respect to the longitudinal centerline (see e.g. page 10, lines 7-10 and Fig. 4). The belt comprises a central segment 310 (see e.g. page 10, line 10 and Fig. 3), at least two intermediate segments 320 (320a and 320b) (see e.g. page 10, lines 10-11) and at least two distal segments 330 (330a and 330b) (see e.g. page 10, lines 10-11 and Fig. 3). The central segment 310 is positioned along the longitudinal centerline L2 and extends transversely outwardly from the longitudinal centerline L2 on either side of the longitudinal centerline L2 (see e.g. Fig. 3). The central segment 310 has a first longitudinal length 311 defined by the distance between the end edges 303 and 304 of the central segment 310 (see e.g. page 10, lines 21-24 and Fig. 3). Each intermediate segment 320a and 320b is transversely outwardly extending from the central segment 310 and is positioned between the central segment 310 and a distal segment 330 (see e.g. page 11, lines 8-9 and Fig. 3). Each intermediate segment 320a and 320b covers a side

hip of the wearer when the belt 300 is worn (see e.g. page 11, lines 9-10 and Fig. 6). Each intermediate segment 320a and 320b has a second longitudinal length 321 (see e.g. page 11, lines 11-12 and Fig. 3) defined by the distance between the end edges of each intermediate segment 320a and 320b (see e.g. page 11, lines 9-12 and Fig. 3). Each distal segment 330a and 330b extends transversely outwardly from an intermediate segment 320 and includes one of the side edges of the belt (see e.g. Fig. 3). Each distal segment 330a and 330b has a third longitudinal length 331 defined by the distance between the end edges of each distal segment (see e.g. page 11, lines 34-36 and Fig. 3). The second longitudinal length 321 is greater than the first longitudinal length 311, and greater than the third longitudinal length 331 (see e.g. page 12, lines 19-24). The belt 300 comprises a fastener element 340 positioned on at least one of the distal segments 330 for releasably securing the belt around the waist of the wearer and an attachment surface 350 formed at least on the opposing surface of each intermediate segment 320 such that the attachment surface 350 is complementary to the attachment means 280 for releasably attaching the disposable assembly to the belt 300 (see e.g. page 12, line 33 to page 13, line 3 and Figs. 4 and 5).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1 and 2 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Stein (U.S. Pat. No. 1,475,895). Claims 3-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stein.

ARGUMENTS

Rejections under 35 U.S.C. § 102(b)

Claim 1

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Stein (U.S. Pat. No. 1,475,895). The Applicants respectfully traverse the rejection. Claim 1 is limited to each intermediate segment covering a side hip of the wearer when the belt is worn. Stein does not teach each intermediate segment covering a side hip of the wearer when the belt is worn. When the belt in Stein is worn, the belt is positioned such that supporting tabs 14 are aligned with the wearer's front and rear so that supporting tabs 14 can support a sanitary napkin that fits between

the wearer's legs and is aligned with the wearer's crotch. The hooks 12 and eyelets 11 in Stein, for controlling the circumference of the belt, would be positioned at one of the wearer's side hips when the belt is worn. A figure from U.S. Patent No. 162,647 showing a device similar to that disclosed in Stein illustrating how the belt in Stein and a sanitary napkin would be arranged when the belt in Stein is worn is shown below. The wearer would place the belt around her waist and the absorbent element would be placed between her legs and be aligned with her crotch.

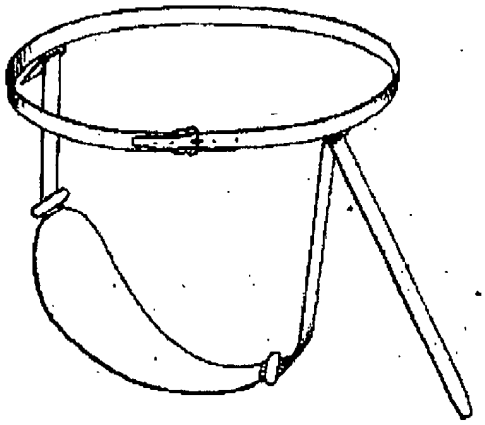

Figure 1. An illustration of a device similar to Stein (from U.S. Patent No. 162,647).

For the reason set forth above, the Applicants submit that Claim 1 is allowable over Stein under 35 U.S.C. § 102(b) and respectfully request that Claim 1 be allowed on appeal.

Claim 2

Claim 2 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Stein (U.S. Pat. No. 1,475,895). Claim 2 is limited to a waist belt wherein the attachment surface for releasably attaching the absorbent assembly to the belt is formed on the opposing surfaces of the intermediate segments and the distal segments.

The Applicants respectfully traverse the rejection of Claim 2 for two reasons. First, Claim 2 depends upon Claim 1 and as discussed above, the Applicants submit that Claim 1 is allowable.

Second, Stein does not teach an attachment surface for releasably attaching the absorbent assembly to the belt on the distal segments. The distal segments in Stein are the free ends of the belt when the belt is not closed by locking hooks 12 into eyelets 11. As shown in Fig. 1 of Stein, reproduced below, "the hooks 12 [[which]] are adapted to be selectively engaged in the eyelets 11 to obtain the proper circumferential adjustment." Stein, Lines 62-68. The points of the hooks 12 are oriented in the direction of the longitudinal axis of the belt to resist expansion of the circumference of the belt (functioning like the swiveling pin in an ordinary belt for clothing). In Stein, "the hooks 13 and a pair of supporting tabs 14 are detachably associated with the girdle 10 (the belt) through the medium of the engagement of the eyelets 15 with the hooks 13." Stein, Lines 70-74 and Figure 1. The points of the hooks 12 for controlling the circumference of the belt are oriented 90° counterclockwise relative to the hooks 13 for detachably associating the girdle (the belt) and supporting tabs 14. Thus, even though the connectors in Stein used in the distal segments of the belt are of the same type as the connectors used in the intermediate segments in Stein, the connectors in the distal segments are <u>not</u> oriented for releasably attaching the absorbent assembly to the belt.

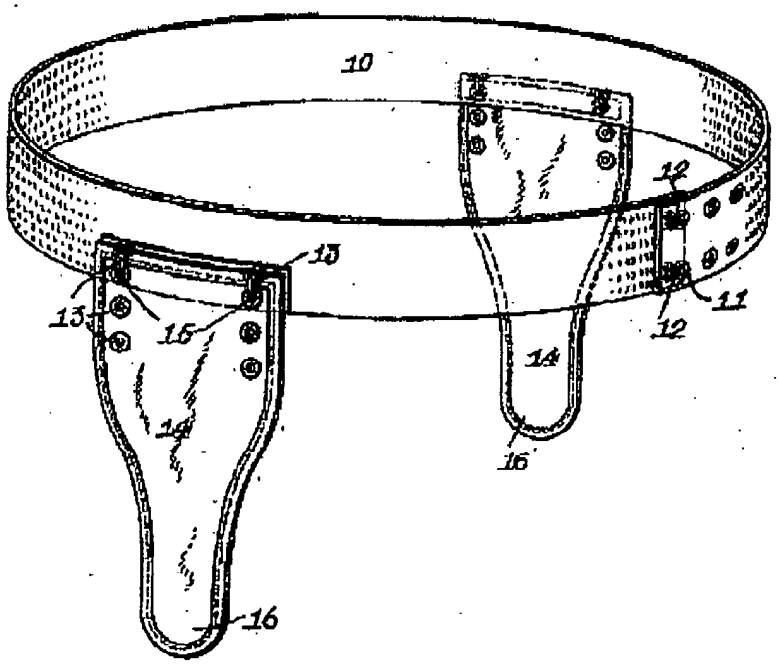

Figure 2. U.S. Patent No. 162,647, Figure 1.

Connectors for releasably attaching the absorbent assembly to the belt would be oriented the same as hooks 13 in Stein. Furthermore, the gaps in the hooks 12 (i.e. the diameter of the arc swept by the bend of the hook) shown in Stein do not appear to be large enough to allow for the absorbent assembly to be releasably attached to the same hooks 12 to which the eyelets 11 are engaged. Because the hooks 12 are not oriented for releasably attaching the absorbent assembly to the belt on the distal segments of the belt in Stein and do not appear to have a large enough gap to allow for the absorbent assembly to be attached to the hooks when the eyelets 11 are engaged with the hooks 12, the Applicants submit that Claim 2 is allowable over Stein.

For the reasons set forth above, the Applicants submit that Claim 2 is allowable over Stein and respectfully request that Claim 2 be allowed on appeal.

Rejections under 35 U.S.C. § 103(a)

Claim 3

Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Stein. The Applicants respectfully traverse the rejection of Claim 3 for three reasons. First, Claim 3 depends upon Claim 1. As discussed above, the Applicants submit that Claim 1 is allowable. Therefore, the Applicants submit that Claim 3 is also allowable.

Second, the Applicants respectfully submit that Stein does not establish a prima facie case of obviousness because Stein fails to teach or suggest all of the claim limitations of Claim 3. Claim 3 is limited to a waist belt wherein the attachment surface for releasably attaching the absorbent assembly to the belt is formed on the opposing surfaces of the intermediate segments and the central segment. The central segment in Stein is the portion of the belt between the tabs 14 that is continuous and is opposite the distal segments where eyelets 11 and hooks 12 close the belt. As shown in Fig. 1 of Stein, there is no attachment surface for releasably attaching the absorbent assembly to the belt on the central segment. The Final Office Action also fails to identify any portion of Stein suggesting an attachment surface for releasably attaching the absorbent assembly to the belt on the central segment. Therefore, Stein, as cited in the Final Office Action, fails to teach or suggest all of the claim limitations of Claim 3.

Third, Claim 3 of the present application is not a mere rearrangement of the parts of a known device. The Final Office Action states that "rearranging the subcomponents of Stein to the configuration claimed in the instant claim 3 would not modify how the device is used." Claim 3 is not a mere rearrangement of the subcomponents of Stein. As discussed above in regard to Claim 2, the hooks 12 and eyelets 11 in Stein are not configured for releasably attaching the absorbent assembly to the belt. Rather, the hooks 12 and eyelets 11 in Stein are configured to set the circumference of the belt. If a designer were to change the configuration of the hooks 12 and eyelets 11, in Stein, to allow the absorbent assembly to be attached to the hooks 12, the hooks 12 and eyelets 11 would not be arranged for controlling the circumference of the belt. Furthermore, if a designer were to move the location of the hooks 12 and eyelets 11, in Stein, there would be no way for a user to close the circumference of the belt. Therefore, Claim 3 of the present application is not a mere rearrangement of the parts of a known device.

For the reasons set forth above, the Applicants submit that Claim 3 is allowable over Stein and respectfully request that Claim 3 be allowed on appeal.

Claims 4 and 5

Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stein. The Applicants submit that Claim 1 is allowable over Stein. Therefore, the Applicants submit that Claims 4 and 5, which depend upon Claim 1, are also allowable over Stein. The Applicants respectfully request that Claims 4 and 5 be allowed on appeal.

Claim 6

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Stein. The Applicants respectfully submit that Stein does not establish a prima facie case of obviousness because Stein fails to teach or suggest all of the claim limitations of Claim 6.

First, the Final Office Action fails to identify any portion of Stein teaching or suggesting an attachment means provided on the wearer-facing surface of the disposable assembly. Stein, Lines 91-96 teaches that the disposable assembly (referred to as napkin in Stein) is secured to the tab by a pin. The pin illustrated in Fig. 3 of Stein appears to be an ordinary safety pin. The

Applicants are unable to identify any portion of Stein teaching or suggesting an attachment means on the wearer-facing surface of the disposal assembly.

Second, Stein does not teach or suggest each intermediate segment covering a side hip of the wearer when the belt is worn. When the belt in Stein is worn, the belt is positioned such that supporting tabs 14 are aligned with the wearer's front and rear so that supporting tabs 14 can support a sanitary napkin that fits between the wearer's legs and is aligned with the wearer's crotch. The hooks 12 and eyelets 11 in Stein, for controlling the circumference of the belt, would be positioned at one of the wearer's side hips when the belt is worn. U.S. Patent No. 162,647 shows a device similar to that disclosed in Stein and is illustrative of how the belt in Stein and a sanitary napkin would be arranged when the belt in Stein is worn.

For the reasons set forth above, the Applicants submit that the rejection of Claim 6 under 35 U.S.C. § 103, based upon Stein, is not applicable and respectfully request that Claim 6 be allowed on appeal.

Claims 7 and 8

Claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stein. The Applicants submit that Claim 6 is allowable over Stein. Therefore, the Applicants submit that Claims 7 and 8, which depend upon Claim 6, are also allowable over Stein. The Applicants respectfully request that Claims 7 and 8 be allowed on appeal.

SUMMARY

In view of all of the above, it is respectfully submitted that Claims 1-8 are allowable over Stein. The Applicants respectfully request that Claims 1-8 be allowed on appeal.

Respectfully submitted,
THE PROCTER & GAMBLE COMPANY

Gary J. Foose
Registration No. 58,896
(513) 634-3293

Date: August 7, 2006
Customer No. 27752

CLAIMS APPENDIX

1. (Rejected) A waist belt for supporting a disposable absorbent assembly, the belt having a longitudinal centerline, a transverse centerline, a wearer-facing surface, an opposing surface, two end edges oppositely disposed with respect to the transverse centerline, and two side edges oppositely disposed with respect to the longitudinal centerline;

the belt comprising a central segment, at least two intermediate segments and at least two distal segments;

the central segment being positioned along the longitudinal centerline and extending transversely outwardly from the longitudinal centerline on either side of the longitudinal centerline, the central segment having a first longitudinal length defined by the distance between the end edges of the central segment;

each intermediate segment transversely outwardly extending from the central segment and being positioned between the central segment and a distal segment, each intermediate segment covering a side hip of the wearer when the belt is worn, each intermediate segment having a second longitudinal length defined by the distance between the end edges of each intermediate segment;

each distal segment extending transversely outwardly from an intermediate segment and including one of the side edges of the belt, each distal segment having a third longitudinal length defined by the distance between the end edges of each distal segment;

wherein the second longitudinal length is greater than the first longitudinal length, and greater than the third longitudinal length; and

wherein the belt comprises a fastener element positioned on at least one of the distal segments for releasably securing the belt around the waist of the wearer, and an

attachment surface formed at least on the opposing surface of each intermediate segment for releasably attaching the disposable assembly to the belt.

2. (Rejected) A waist belt according to Claim 1 wherein the attachment surface for releasably attaching the absorbent assembly to the belt is formed on the opposing surfaces of the intermediate segments and the distal segments.

3. (Rejected) A waist belt according to Claim 1 wherein the attachment surface for releasably attaching the absorbent assembly to the belt is formed on the opposing surfaces of the intermediate segments and the central segment.

4. (Rejected) A waist belt according to Claim 1 wherein the second longitudinal length of the intermediate segment is between 100 mm and 250 mm if the belt is designed for adult wearers.

5. (Rejected) A waist belt according to Claim 1 wherein the second longitudinal length of the intermediate segment is between 50 mm and 100 mm if the belt is designed for infant wearers.

6. (Rejected) An absorbent article having a longitudinal centerline, a transverse centerline, a wearer-facing surface and an opposing surface;

the absorbent article comprising:

a disposable absorbent assembly comprising a liquid pervious topsheet, a liquid impervious backsheet, an absorbent core positioned between the topsheet and the backsheet, and an attachment means provided on the wearer-facing surface of the disposable assembly;

a waist belt having two end edges oppositely disposed with respect to the transverse centerline, and two side edges oppositely disposed with respect to the longitudinal

centerline, the belt comprising a central segment, at least two intermediate segments and at least two distal segments;

the central segment being positioned along the longitudinal centerline and extending transversely outwardly from the longitudinal centerline on either side of the longitudinal centerline, the central segment having a first longitudinal length defined by the distance between the end edges of the central segment;

each intermediate segment transversely outwardly extending from the central segment and being positioned between the central segment and a distal segment, each intermediate segment covering a side hip of the wearer when the belt is worn, each intermediate segment having a second longitudinal length defined by the distance between the end edges of each intermediate segment;

each distal segment extending transversely outwardly from an intermediate segment and including one of the side edges of the belt, each distal segment having a third longitudinal length defined by the distance between the end edges of each distal segment;

wherein the second longitudinal length is greater than the first longitudinal length, and greater than the third longitudinal length; and

wherein the belt comprises a fastener element positioned on at least one of the distal segments for releasably securing the belt around the waist of the wearer, and an attachment surface formed at least on the opposing surface of each intermediate segment of the belt such that the attachment surface is complementary to the attachment means for releasably attaching the disposable assembly to the belt.

7. (Rejected) An absorbent article according Claim 6 wherein the second longitudinal length of the intermediate segment is between 100 mm and 250 mm if the belt is designed for adult wearers.

8. (Rejected) An absorbent article according Claim 6 wherein the second longitudinal length of the intermediate segment is between 50 mm and 100 mm if the belt is designed for infant wearers.

EVIDENCE APPENDIX

No matter is appended in this appendix.

RELATED PROCEEDINGS APPENDIX

No matter is appended in this appendix.

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